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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/288,229	04/08/1999	CHARLES T. FERGUSON	2479.1012000	7202

21005 7590 03/15/2002

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EXAMINER

GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 03/15/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/288,229	Applicant(s) FERGUSON ET AL.	
	Examiner Tilahun B Gesesse	Art Unit 2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 1999.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims <sup>1-4, 6-9, 12-16, 18-21, 24-28 and 30-33</sup>~~1-35~~ are rejected under 35 U.S.C. 102(e) as being anticipated by Tiedemann, Jr. et al (5,987,326).

As to claims 1-3, 25-28 Tiedemann, Jr. et al disclose a method for accessing data from a network via a wireless communication link (fig.2), the method comprising the steps of:

Tiedemann, Jr. et al disclose determining whether payload data has been received from a subscriber's terminal, ( parameters monitored to determine the channel condition "of subscriber unit" include the pilot strength, pilot code offset and error rate, abstract). Tiedemann, Jr. et al disclose requesting, based on said determining, "due to fading or detection of high error rate or " a first of traffic channels (BS 32a 50 and 52),

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the first of traffic channels including at least one traffic channel (col. 6 lines 4-26).

Tiedemann, Jr. et al furthermore, disclose the supplemental channels are transmitted by subscriber unit 30b via reverse link signaling messages or the EIB bits ---, col. 12 lines 23-36.

Tiedemann, Jr. et al disclose transmitting the data over the requested first set of traffic channels, (col. 6 lines 6-10).

As to claims 4 and 9, Tiedemann, Jr. et al disclose receiving an assignment of a second set of traffic channels, the second set of traffic channels including at least one traffic channel; and receive data over the second set of traffic channels (32b, 52, fig.2)

As to claims 6-8,30-33, Tiedemann, Jr. et al disclose everything as explained above and furthermore, Tiedemann, Jr. et al inherently disclose constructing a first set of traffic channel(col.12 lines 23-36) .

As to claims 12, 24 Tiedemann, jr. et al inherently disclose the request for a first plurality of traffic channels includes information as to the size and number of channels needed.

As to claims 13-16,18-21 Tiedemann, Jr. et al disclose method claims as explained above in claims 1-12, and furthermore, Tiedemann, Jr. et al disclose an apparatus claims, Tiedemann, Jr. et al inherently disclose a processor and Tiedemann, Jr. et al disclose a memory (48) for storing instructions and payload data , (fig.2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5,10-11,17,22-23,29,34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiedemann, Jr. et al .

As to claims 5,10-11,17,22-23,29, 34-35, Tiedemann, Jr. et al do not specifically disclose a reverse control or non-traffic channel. However, Tiedemann, et al disclose the reverse link signals from both subscriber units 30a and 30b are comprising a single lower channel, col.6 lines 42-51. it would have been obvious to one of ordinary skill in the art at the time of invention was made to transmit a request on reverse channel or release signaling in order to acknowledge the forward channel is received properly.

#### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I et al (us 5,734,646) disclose a code division multiple access system including a plurality of cells , each cell having a base station--- the system receives a requesting mobile station, col. 1 line57-col. 2 line 8.

Raith et al disclose TDMA environment and first , second and third time slot (1,2,3) can be used to carry payload information which is not required to be transmitted at greater than full rate, abstract and figs. 5A-C.

5. *Any response to this action should be mailed to:*

*Commissioner of Patents and Trademarks  
Washington, D.C. 20231*

*or faxed to:*

*(703) 308-6296, (for formal communications intended for entry)*

*Or:*

*(703) 305-9508 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")*

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun Gesesse whose telephone number is (703) 308-5873.. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (703) 305-4385. The fax phone number for this Group is (703) 308-6306 or (703) 308-6296.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

TBG

Mar. 8, 2002

*Tilahun Gesesse*  
*Patent Examiner*  
*Art Unit 2685*

  
EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600